

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-10  
Richmond v. Polk  
(Howard)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

03-6763  
Brown v. Braxton  
(Turk)

HABEAS CORPUS. Whether inmate's due process rights were violated by hearing officer's refusal to allow a witness to testify because testimony was cumulative.

02-1590  
Newport News Shipbld v. S. Harris-Smallwood

LONGSHORE BENEFITS. Whether the ALJ correctly determined that Harris-Smallwood's claim was timely; whether award of benefits was supported by substantial evidence.

03-6815  
Brooks v. Smith  
(Dixon)

HABEAS CORPUS. Whether Brooks received ineffective assistance of counsel in relation to plea offer.

PANEL I  
COURTROOM ONE  
Courthouse Room 435 (Red Carpet)  
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

02-2387

Murray v. United Food  
(Motz)

TITLE VII. Whether the plaintiff established he was  
subjected to employment discrimination and defamation.

03-1779 (L), 03-1962

Hadeed v. Abraham  
(Morgan)

FAIR HOUSING ACT. Whether district court erred in granting  
summary judgment on claim of sex discrimination and in  
imposing fees and costs under the Act, Fed. R. Civ. P. 11,  
and Fed. R. Civ. P. 37; other issues.

03-2105 (L), 03-2435

Smith v. Continental Casualty  
(Quarles)

ERISA. Whether the district court improperly modified the  
standard of review; attorney's fees and costs.

03-6932

Manokey v. Waters  
(Blake)

HABEAS CORPUS. Whether petitioner's conviction for first  
degree assault was precluded on double jeopardy grounds due  
to acquittal on charge of reckless endangerment.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2062  
Martin v. Dishong  
(Bertlesman)

CIVIL RIGHTS. Challenge to denial of qualified immunity to police officer in shooting death of motorist.

03-4253  
US v. Mohamad Y. Hammoud  
(Mullen)

CRIMINAL LAW & PROCEDURE. Constitutional challenge to AEDPA on the ground that it is overly broad and violates freedom of association; challenge to wiretap evidence; sentencing issue.

03-2108  
Edens v. Kennedy  
(Haden)

SEARCH & SEIZURE. Whether police conducted illegal search of Section 1983 claimant's residence; other issues.

03-1860  
General Technology v. EXRO Ltda  
(Hilton)

CONTRACTS. Whether defendant breached operating agreement by depriving alleged patent license a share of litigation proceeds.

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1659  
Bonolis v. Metropolitan Life  
(Garbis)

ERISA. Challenge to denial of disability benefits under  
employer-sponsored disability plan.

03-1555 (L), 03-1796  
Estrin v. Natural Answers  
(Legg)

CONTRACTS. Challenge to summary judgment in action alleging  
breach of stock and consulting agreement.

03-2113  
Hall v. Commonwealth of VA  
(Morgan)

VOTING RIGHTS ACT. Challenge to configuration of  
congressional district under reapportionment plan.

03-1556  
Andrews v. Primus Telecom Group  
(Brinkema)

SECURITIES. Challenge to judgment as a matter of law in  
action seeking damages for the alleged fraudulent sale of  
securities.

PANEL IV  
COURTROOM FOUR  
Courthouse Room 420 (Tweed Carpet)  
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2159  
Hegna v. Islamic Republic  
(Motz)

TERRORISM RISK INSURANCE ACT. Challenge to district court's order quashing plaintiffs' writs of attachment against Iranian property seized by the United States.

03-1600  
Meyer v. Berkshire Life Ins  
(Blake)

ERISA. Whether fiduciary breached its duties; statute of limitations; calculation of damages and prejudgment interest.

03-2070  
Yamaha Motor Corp US v. Jim's Motorcycle Inc  
(Payne)

CONSTITUTIONAL LAW. Whether state statute requiring notice to existing motorcycle dealerships of any proposed new dealership of the same make is invalid under the Commerce Clause.

00-6650  
Olatunji v. Ashcroft  
(Davis)

IMMIGRATION/SECTION 2241. Whether the IIRIRA was retroactively applied to petitioner when he was classified as an arriving alien seeking readmission to the United States.

PANEL V  
COURTROOM FIVE  
Courthouse Annex Room 229  
9:30 a.m.

TUESDAY, MAY 4, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-15 (L), 04-7 04-8  
US v. Lentz  
(Lee)

CRIMINAL. In a federal capital murder case, did the district court, finding intentional prosecutorial misconduct, err in entering a judgment of acquittal and dismissing the indictment after the jury returned a guilty verdict.

PANEL I  
COURTROOM ONE  
Courthouse Room 435 (Red Carpet)  
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2274 (L), 03-2432  
NLRB v. CSX Hotels, Inc

LABOR. Whether substantial evidence supports the Board's decision that employer engaged in unlawful labor practice by contacting police to remove or arrest picketers.

03-2288  
Williams Mountain v. Lucas

BLACK LUNG BENEFITS. Whether ALJ properly weighed medical evidence; whether award of benefits is supported by substantial evidence.

03-1948  
Information Systems v. Principal Life  
(Messitte)

ERISA. Whether breach of contract claim and professional negligence claim brought by a pension plan sponsor against a non-fiduciary third party administrator are preempted by the Act.

03-2017  
Walls v. Security Enforce Bur  
(Cacheris)

CIVIL RIGHTS. Whether former employee has standing to bring a "Public Accommodation" claim challenging policy of placing movie patrons under surveillance; challenge to denial of Title VII claims.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2184

Price v. Thompson, Sec  
(Garbis)

TITLE VII. Challenge to summary judgment in action alleging  
retaliation for filing a previous EEOC complaint.

03-2161

SER Solutions Inc v. Masco Corporation  
(Cacheris)

CONTRACTS. Challenge to summary judgment in actions  
alleging breach of contract and copyright infringement  
arising out of software licensing agreement; attorney fees.

03-2127

Keeney v. Larkin  
(Davis)

SECURITIES. Challenge to dismissal of action alleging  
corporate officers fraudulently misrepresented  
corporation's integration of acquired subsidiaries.

03-2223

Fulmer v. City of St. Albans  
(Goodwin)

FAIR LABOR STANDARDS ACT. Whether city's method of  
calculating regular hourly rate and overtime rate for  
firefighter wages was in compliance with the Act.

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
9:30 a.m.

WEDNESDAY, MAY 5, 2004



UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2249

Stancill v. Harford Sands Inc  
(Motz)

BANKRUPTCY. Whether claim against Chapter 11 Debtor was speculative when it was acknowledged in Debtor's financial records.

03-2305

Hanson v. US Agency Intl Dev  
(Hilton)

FREEDOM OF INFORMATION ACT. Whether agency properly withheld a report under the attorney work exemption.

03-2310

Scholastic Inc v. Escolastica.com  
(Hilton)

TRADEMARK. Whether there is a likelihood of confusion between English and Spanish domain names.

03-4637

US v. Jimmie J. Pittman  
(Williams)

CRIMINAL LAW & PROCEDURE. Whether district court erred in finding that police officer's "hunch, gut feeling, or sixth sense" amounted to reasonable articulable suspicion justifying a stop-and-frisk.

PANEL IV  
COURTROOM FOUR  
Courthouse Room 420 (Tweed Carpet)  
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4815  
US v. Florence Lockhart  
(Williams)

CRIMINAL. Propriety of conviction of threatening the  
President under 18 U.S.C. Section 871(a).

03-6620  
Johnson v. Harkleroad  
(Sharp)

HABEAS. Whether petitioner's confession was  
unconstitutionally obtained.

03-2064  
Roche v. Lincoln Property Co  
(Lee)

TORTS. Whether there is an implied warranty of habitability  
under state law; challenge to dismissal of conversion claim  
and exclusion of medical testimony on causation.

03-4618  
US v. Amy Tucker  
(Chambers)

CRIMINAL. Propriety of conviction of conspiracy to  
manufacture destructive device.

PANEL V  
COURTROOM FIVE  
Courthouse Annex Room 229  
9:30 a.m.

WEDNESDAY, MAY 5, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-13 (L), 03-25  
US v. James Roane  
(Spencer)

HABEAS CORPUS. In a federal capital murder case, did the district court err in finding that trial counsel provided ineffectiveness of counsel by failing to investigate or present evidence of the defendant's alibi; other issues.

03-26 (L), 03-27  
US v. Cory Johnson  
(Spencer)

HABEAS CORPUS. Numerous issues arising from a federal capital murder conviction and sentencing.

03-1093  
Griffin v. Poston  
(Horn)

ATTORNEY'S FEES. Whether defendant was a prevailing party entitled to fees; whether fee provision in promissory note preempts the fee provision in stock purchase agreement.

03-4427  
US v. Christopher Wood  
(Michael)

CRIMINAL. Enforceability of plea agreement and waiver of appellate rights; other issues.

PANEL I  
COURTROOM ONE  
Courthouse Room 435 (Red Carpet)  
9:30 a.m.

\*Rev'd 03/19/04

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1480

Newport News Shipbld v. Brown

ATTORNEY'S FEES. Is the recovery of a Section 14 penalty considered "compensation" thereby permitting the claimant to an award of attorney's fees under the Longshore and Harbor Worker's Compensation Act.

03-1911

Costar Group Inc v. Loopnet Inc  
(Chasanow)

COPYRIGHT INFRINGEMENT. Challenge to summary judgment based on defendant's immunity as a "passive" provider of Internet access and hosting services.

03-1879

Schnare v. Ziessow  
(Brinkema)

DEFAMATION. Challenge to dismissal of action alleging libel and intentional infliction of emotional distress in publication of article on breed standards for Labrador Retrievers.

02-7206 (L), 02-7207 02-7208 02-7209

US v. David J. Merritt  
(Jackson)

INEFFECTIVE ASSISTANCE. Whether a certificate of appealability should issue on Merritt's claim that his attorney provided erroneous advice regarding his sentencing exposure at trial. If so, whether Section 2255 relief should be granted.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2069

Wynne v. Great Falls SC  
(Currie)

CONSTITUTIONAL LAW. Challenge to district court order  
enjoining religious invocations at town council meetings.

03-1588

Brown v. Thompson  
(Ellis)

CIVIL. Whether plaintiff's medical malpractice settlement  
entitles Medicare to reimbursement pursuant to 42 U.S.C.  
Section 1395y(b) (2) (2000) .

03-1975

Durney v. Doss  
(Moon)

CIVIL RIGHTS. Whether search and arrest violated  
constitutional rights; qualified immunity.

03-2054

Nicholas v. Wyndham Intl Inc  
(Ellis)

JURISDICTION. Whether appeal of a discovery order with  
respect to a non-party to proceeding in another circuit is  
interlocutory.

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
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(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2011  
SC Troopers Fed v. State of SC  
(Anderson)

CONSTITUTIONAL LAW. Challenge to summary judgment in action by state troopers union alleging that the state violated the right to equal protection and freedom of speech and association.

03-1811  
Columbia Casualty Co v. Westfield Insurance  
(Keeley)

INSURANCE. Whether accidental bodily injury coverage applies to county's alleged liability for jail inmate suicides.

03-1840  
Lanham Ford v. Ford Motor Company  
(Messitte)

FEDERAL JURISDICTION. Whether the amount in controversy exceeded the statutory minimum dollar amount for diversity jurisdiction; challenge to dismissal of breach of contract and state law claims.

03-1761  
T.G. Slater & Son v. Donald and Patricia  
(Brinkema)

CONTRACTS. Challenge to dismissal of action seeking real estate commission.

PANEL IV  
COURTROOM FOUR  
Courthouse Room 420 (Tweed Carpet)  
9:30 a.m.

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-6681  
US v. Little  
(Voorhees)

CRIMINAL LAW & PROCEDURE. Whether defendant's lack of notice of entry of judgment allows the district court to vacate and reissue its order so that the defendant may file a timely notice of appeal.

03-1102  
Kebede v. Ashcroft

IMMIGRATION. Whether the Board erred in streamlining case for summary affirmance in light of errors by Immigration Judge; other issues.

03-2051  
Lux v. White  
(Brinkema)

CONSTITUTIONAL LAW. Whether repeal of handbill ordinance makes the case non-justiciable; whether plaintiffs lack standing.

03-1995  
Bryant Real Estate v. Toll Brothers Inc  
(Wexler)

CONTRACTS. Whether "fee agreement" was a brokerage agreement that expired under state law prior to the purchase of the property; whether plaintiffs are barred from recovery by "unjust conduct."

PANEL V  
COURTROOM FIVE  
Courthouse Annex Room 229  
9:30 a.m.

\*Rev'd 03/19/04

THURSDAY, MAY 6, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-6642  
Bilal v. Currie  
(Howard)

SECTION 1983. Whether the PLRA's exhaustion requirement imposes a pleading requirement on the plaintiff or creates an affirmative defense that must be raised and proved by the defendant.

03-4571  
US v. Bennie Lee Powell  
(Mullen)

SENTENCING. Challenge to downward departure due to diminished capacity.  
15 mins. per side

03-4257 (L), 03-4258 03-4318  
US v. Collins  
(Howard)

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence to support money laundering conviction; denial of severance; computation of the amount of loss for sentencing purposes.

03-4574  
US v. Robert Wayne Boggs  
(Osteen)

CRIMINAL LAW & PROCEDURE. Whether the district court erred in not ordering a pretrial competency examination.

PANEL I  
COURTROOM ONE  
Courthouse Room 435 (Red Carpet)  
8:30 a.m.

FRIDAY, MAY 7, 2004



UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2026

Darlington v. Bromseth  
(Spencer)

CIVIL RIGHTS. Challenge to denial of qualified immunity to  
police officer in action alleging excessive use of force.

03-2261

Taylor v. Barnhart  
(Hudson)

SOCIAL SECURITY. Whether substantial evidence supports  
Commissioner's determination that claimant was at fault for  
overpayment of benefits.  
15 mins. per side

03-4473

US v. Habegger  
(Bullock)

CRIMINAL. Did the government provide sufficient evidence of  
"trafficking", an essential element of U.S.C. Section 2320;  
sentencing.

03-2085

Pine Ridge Coal Co v. Loftis  
(Goodwin)

ARBITRATION. Challenge to summary judgment compelling  
arbitration of a worker's compensation claim pursuant to a  
collective bargaining agreement.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
8:30 a.m.

\*Rev'd 03/15/04

FRIDAY, MAY 7, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4672

US v. Mark Kevin Mayes  
(Kiser)

CRIMINAL. Whether the stop of the vehicle was authorized by  
the residential search warrant; other issues.

02-4871

US v. Benjamin Holmes  
(Houck)

CRIMINAL. Whether district court erred in denying motion to  
suppress gun recovered pursuant to protective sweep of  
vehicle after defendant was handcuffed and placed in police  
custody; other issues.

03-1991 (L), 03-2012

Eastern Assoc Coal v. Massey  
(Goodwin)

WORKERS' COMPENSATION. Whether collective bargaining  
agreement constituted a waiver of right to litigate  
disability discrimination claims.

03-2232

Natl Taxpayers Union v. US Social Security  
(Nickerson)

CONSTITUTIONAL LAW. Whether the district court lacked  
jurisdiction over a pre-enforcement challenge to statute  
prohibiting private use of the term "Social Security" in  
advertising or other solicitations.

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
8:30 a.m.

\*Rev'd 03/15/04

FRIDAY, MAY 7, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4784

US v. John Bayne, Jr.  
(Ellis)

SENTENCING GUIDELINES. Challenge to downward departure  
pursuant to the "lesser harms" provision of U.S.S.G.  
Section 5K2.11.  
15 mins. per side

03-2257

Crutchfield v. US Army Corps  
(Payne)

EQUAL ACCESS TO JUSTICE ACT. Challenge to denial of  
attorney's fees.

03-2181

Simms v. Bruce  
(Davis)

PRISONER RIGHTS. Challenge to denial of qualified immunity  
to correctional officers on excessive force claim.

03-4927

US v. Roseline Kalili  
(Jackson)

SENTENCING GUIDELINES. Challenge to downward departure  
based on "aberrant behavior" and loss calculation in bank  
fraud case.  
15 mins. per side

PANEL IV  
COURTROOM FOUR  
Courthouse Room 420 (Tweed Carpet)  
8:30 a.m.

FRIDAY, MAY 7, 2004

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(05/04/2004 - 05/07/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-4081

US v. Abdorasool Janati  
(Hilton)

CRIMINAL. In a complex health care fraud prosecution, did the trial court err in suppressing the government's "pattern and practice" evidence of a defendant's false claims submissions.

02-4502

US v. Kelon Renardo Hardin  
(Norton)

CRIMINAL. Whether imposition of life sentence under 18 U.S.C. Section 3559(c) (1) (2000) was plain error when government did not provide notice of predicate felonies; sufficiency of the evidence.

03-1912

US ex rel Gilliam v. General Dynamics  
(Houck)

FALSE CLAIMS ACT. Challenge to summary judgment in action alleging false statements to Congress to obtain submarine construction contract.

03-6650 (L), 03-206

In Re: Moody

HABEAS CORPUS. Whether the denial of Moody's 28 U.S.C. Section 2254 (2000) petition was preserved for appeal; whether Moody should be granted authorization to file a successive Section 2254 petition.

PANEL V  
COURTROOM FIVE  
Courthouse Annex Room 229  
8:30 a.m.

FRIDAY, MAY 7, 2004